

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NAVIN SHARMA,

Plaintiff,

v.

CITY OF VANCOUVER, a Washington
municipal corporation, PATRICK J. MC
DONNELL, Vancouver City Manager, and
MITCH BARKER, Acting Police Chief,

Defendants.

CASE NO. C06-5688BHS

ORDER STRIKING
PLAINTIFF'S MOTION FOR
ORDER OF DISMISSAL
WITHOUT PREJUDICE

This matter comes before the Court on Plaintiff's Motion for Order of Dismissal Without Prejudice (Dkt. 32). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file herein.

I. BACKGROUND AND DISCUSSION

On July 5, 2007, Plaintiff moved for an order dismissing this case without prejudice pursuant to Federal Rule of Civil Procedure 41(a). Dkt. 32. In the response, Defendants acknowledge that Plaintiff is "likely entitled to a dismissal without prejudice" but ask that "if dismissal is granted, it be conditioned upon terms, namely the Defendants be awarded all costs and reasonable attorneys' fees." Dkt. 34 at 1. In the reply, Plaintiff withdraws the Motion for Order of Dismissal Without Prejudice. Dkt. 37 at 2.

1 It appears that at least some of the attorneys' fees and costs incurred by Defendants
2 would not be of use in defense of Plaintiff's claims in state court and would therefore be
3 recoverable as a condition of voluntary dismissal. *See Koch v. Hankins*, 8 F.3d 650, 652 (9th Cir.
4 1993) ("Only those costs incurred for the preparation of work product rendered useless by the
5 dismissal should be awarded as a condition of the voluntary dismissal."). The Court does not
6 reach this issue, however, because Plaintiff has withdrawn the Motion for Order of Dismissal.
7 Dkt. 37 at 2. Pursuant to Plaintiff's request, the Court should strike the Motion for Order of
8 Dismissal (Dkt. 32).

9 **II. ORDER**

10 Therefore, it is hereby

11 **ORDERED** that Plaintiff's Motion for Order of Dismissal Without Prejudice (Dkt. 32) is
12 **STRICKEN**.

13 DATED this 30th day of July, 2007.

14
15 /s/ Benjamin H. Settle
16 BENJAMIN H. SETTLE
17 United States District Judge
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